

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Republican Party of Minnesota,
an association, et al.,

Civil File No. 98-831 (MJD)

Plaintiffs,

ORDER

vs.

Verna Kelly, in her capacity as
Chairperson of the Minnesota
Board of Judicial Standards, et al.,

Defendants.

Based on the decisions in this matter of the U.S. Supreme Court and the Court of Appeals for the Eighth Circuit, and on all of the files, records, and proceedings herein, IT IS ORDERED:

1. This Court's September 14, 1999 amended memorandum opinion and order for summary judgment in favor of Defendants (Doc. No. 120) and September 14, 1999 amended judgment (Doc. No. 121) are VACATED;
2. Plaintiffs' motion for summary judgment (Doc. No. 48) is GRANTED:
 - a. the Clerk of Court shall enter judgment in favor of Plaintiffs DECLARING portions of section 5.A(3)(d)(i) (2000) and sections 5.A(1)(a) and (d) and 5.B(1)(a) and (2) of former Canon 5 of the Minnesota Code of Judicial Conduct UNCONSTITUTIONAL under the First Amendment to the United States Constitution as set forth in *Republican Party of Minn. v. White*, 536 U.S. 765 (2002), 416 F.3d 738 (8th Cir. 2005)¹;

¹ On appeal, Suzanne White was substituted for Verna Kelly as Defendant Chairperson of the Minnesota Board on Judicial Standards. The provisions of Canon 5 as amended by the Minnesota Supreme Court on December 23, 1997 that were challenged by Plaintiffs and declared unconstitutional in the cited appellate opinions are set forth in the opinions. The Minnesota Supreme Court amended the cited provisions of Canon 5 after the appellate opinions were issued. Order, *In re Amendment of the Code of Judicial Conduct*, No. C4-85-697 (Minn. Sept. 14, 2004); Order, *In re Amendment of the Code of Judicial Conduct*, No. C4-85-697 (Minn. March 29, 2006).

3. Defendants' motions for summary judgment (Doc. Nos. 96 and 99) are DENIED;
and
4. Determination of an award of attorneys' fees and expenses is reserved in
accordance with this Court's October 3, 2005 orders (Doc. Nos. 160 and 162).

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: _July 11, 2006_____

_s/Michael J. Davis_____

Michael J. Davis

U.S. District Court